

# Exhibit 1

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1            I assume, Mr. Hoffman, you are contemplating an  
2 application for a Franks hearing?

3            MS. HOFFMAN: Correct.

4            THE COURT: It seemed to me that what you need to tell  
5 me now, or you can think about it or canvass among yourselves  
6 is what kind of a briefing schedule you want to have. It may  
7 be, Mr. Colton and Mr. Hoffman, that what you want to do is tee  
8 up the Franks issue first, have me rule on whether or not there  
9 should be a Franks hearing. If there is no Franks hearing,  
10 then we can brief the issues that have been laid out in the  
11 hearing. If there a Franks hearing then there can be one set  
12 of posthearing briefing that will cover the Franks hearing and  
13 this hearing. I think that makes more sense than having you  
14 all do a posthearing briefing now along with making an  
15 application for a Franks hearing and then have a second set of  
16 posthearing briefs. I think that would be less sufficient.  
17 Again, you can think about it overnight and canvass among  
18 yourselves or you can tell me now.

19           MS. HOFFMAN: I tend to agree with what your Honor  
20 anticipates.

21           THE COURT: That is that you would want to tee up the  
22 Franks hearing first, have me rule on that.

23           MS. HOFFMAN: Yes.

24           THE COURT: The next question, Mr. Colton, do you have  
25 a view on that?

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1 MR. COLTON: I am only smiling, your Honor, because we  
2 had talked among ourselves and had agreed for efficiency  
3 purposes to go straight to -- basically this has been a mini  
4 trial -- to summation which would be an interactive summation.

5 THE COURT: I think there may very will be argument  
6 here. My only concern is that this is in effect been a bench  
7 trial and I guest posttrial submissions all the time from your  
8 colleagues on the civil side of the law. They fight over  
9 money.

10 MR. COLTON: I was there once.

11 THE COURT: So you know. So you know, Mr. Colton. I  
12 know it is a pain in the rear, but I do think that given how  
13 extensive this record is that is the most thorough way of  
14 resolving. There are so many subissues here and so many fault  
15 lines here and this is a very fact intensive determination.  
16 Obviously this credibility issue is beyond that. There are a  
17 lot of issues that I think have to be carefully argued.

18 I think from my standpoint I have to be careful and  
19 consider and I think it is better for me to get it right for  
20 you all and to obviously do the best I can to get it right  
21 based on the record. I still think we will haver argument.

22 MR. COLTON: I think your Honor knows what my concern  
23 is.

24 THE COURT: I get the concern, believe me. When there  
25 are similar concerns in other cases, I take argument and I rule

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1 from the bench, because I am very sympathetic to the concern  
2 and always have been in this case and others. The defendants  
3 have their speedy trial rights vindicated. When we have issues  
4 as complex as this, searches in two countries involving  
5 inspectors. We had a lot of people testify. There are some  
6 novel legal issues and complicated legal issues. I would  
7 imagine that the defendants would like me decide this based on  
8 a thorough record as I could because if I rule in their favor,  
9 they are going to want to have that be a thorough ruling if the  
10 government should appeal it or vice-versa.

11 In any event, I think if we are going to go with the  
12 suggestion that we brief the Franks issue first, then it still  
13 leaves open the question as to how extensive the briefing will  
14 be on this issue. I think we need to tee that up before we  
15 figure out the form the postbriefs.

16 The question, Mr. Colton and Mr. Hoffman if --  
17 assuming you are on board with that, Mr. Colton. Are you  
18 onboard with that?

19 MR. COLTON: Can I have a moment?

20 THE COURT: Yes.

21 MR. COLTON: We are on board.

22 THE COURT: So then do you want to tell me now when  
23 you want to give me the submissions, or do you want to work it  
24 out among yourselves?

25 MR. COLTON: I think we can work it out here.

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1 THE COURT: Fine.

2 MR. COLTON: If your Honor wants to give us 10  
3 minutes.

4 THE COURT: I am happy to give you 10 minutes if you  
5 want to talk about it now.

6 MR. COLTON: Perhaps the easiest thing is to set it.

7 MS. HOFFMAN: I would suggest three weeks, your Honor.  
8 I think in view of the record --

9 MR. COLTON: Are you saying the Franks hearing?

10 MS. HOFFMAN: Correct. That is obviously a very  
11 significant issue.

12 THE COURT: And it a fact-intensive issue.

13 MS. HOFFMAN: Correct. And obviously it could well be  
14 that these issues are the dispositive issues to the resolution  
15 of the case. All that being the case, I think that would be  
16 appropriate.

17 THE COURT: Mr. Colton?

18 MR. COLTON: I was going to say two, but it seems to  
19 be quibbling.

20 THE COURT: So that puts it August 30 for the defense  
21 submission for Franks.

22 When did the government want to respond by?

23 MR. COLTON: Just for the record, we may or may not do  
24 a submission.

25 THE COURT: I was suggesting a joint one.

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1 MS. McEVROY: The government would request three weeks.

2 THE COURT: September 21.

3 And reply?

4 MS. HOFFMAN: I would think a week.

5 THE COURT: September 28.

6 What is going on with the privilege issues?

7 MS. MERGOLIS: I can speak to that, your Honor.

8 THE COURT: Good afternoon.

9 MS. MERGOLIS: Good afternoon. I believe they are  
10 resolved is my understanding. We don't have a representative  
11 from the government privilege team here today. As far as I can  
12 tell the U.K. and U.S. are completely resolved and we don't  
13 expect litigation on this issue.

14 THE COURT: Obviously there is, as I think I mentioned  
15 before -- presumably whatever it is that you all worked out  
16 would cover what remains to potentially be produced by way of  
17 the subpoena. If I grant the motion to quash the subpoena,  
18 then that is moot. If I deny the motion to quash the subpoena  
19 there could be the production of additional documents. I  
20 assume whatever you all have worked out will avoid litigation  
21 on those materials as well, am I right on that?

22 MS. MERGOLIS: No. I was referring to the documents  
23 that were produced to us by the government privilege team as  
24 potentially privileged materials. And that did not include  
25 materials that have yet to be produced.

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